IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15416 of 2004

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Between:

M/s Bethesda Institute of Health Sciences (Sponsored

by Bethesda Educational Society, Regn.No. 1118/1994)

rep. by E.Narayana Rao S/o (Late) E. Narayana Murthy,
Director and Correspondent, 12-57-1/2, Plot No. 226,

Sector, M.V.P. Colony, Visakhapatnam.

..... PETITIONER

AND

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1 Director of Health, Andhra Pradesh, Hyderabad.
2 Government of Andhra Pradesh, rep. by its Principal

Secretary, Medical and Health Department, Secretariat,

Hyderabad.
3 District Medical and Health Officer, Visakhapatnam

District at Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ declaring that the action of the 1st respondent contained in proceedings in Rc.No.1763/E4.E/2004 dated 11-8-2004 directing the District Medical and Health Officers to publish in newspapers that persons getting admitted in the petitioner institute would be running a risk, is arbitrary and illegal and direct the respondents to forbear from castigating any criticism about the diploma course of the petitioner in Certificate of Public Health and Sanitation Technology during the subsistence of the recognition to the diploma course of the petitioner by way of a Rule made under proviso to Article 309 of the

Constitution of India contained in G.O.Ms.No.84 dated 26-3-2002.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for Respondents: GP FOR MEDICAL HEALTH &

FAMILY WELFARE

The Court at the admission stage made the following :

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for respondents. Both have no objection for disposal of the writ petition at the admission stage.

Petitioner-institute was conducting one year diploma course in Public Health and Sanitation Technology, which is a technical qualification for appointment to State services for the post of Multipurpose Health Assistant and the said diploma course has been recognized as technical qualification as per G.O.Ms.No.84 dated 26-3-2002 by way of amendment to Rule 4 to the Special Rules for the posts of Multipurpose Health Extension Officer, Multipurpose Health Supervisor and Multipurpose Health Assistant in G.O.Ms.No.273 dated 24-4-1989. Since the diploma certificate of the petitioner institute is accepted as a valid technical qualification for appointment to the post of Multipurpose Health Assistant, it is clear that the petitioner is entitled to continue the said course every year. While so, the validity of the diploma certificates issued by some private institutes have fallen for consideration before a Division Bench of this court in W.P.No.15107 of 2002 and batch wherein the challenge was to the cancellation of the written test for recruitment to the post of Multipurpose Health Assistant dated 11-8-2002, by the State Government doubting the merit of the diploma certificates issued by the private institutions. Pending the said writ petition this court in W.P.M.P.No.5482 of 2003, dated 1-5-2003 passed the following order:

> "Heard learned counsel for the parties. We have passed an order on 28-4-2003. We have found that a committee had been appointed by the Government, which has indicated the following four colleges.
>
> 1. Institute of Public Health & Hygiene, New Delhi.
> 2. All India Institute of Local Self Government, Bombay/Karnataka.
> 3. Bethesda Institute of Health Sciences, Visakhapatnam.
> 4. College of Medical Technology, Ongole.
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> The Committee was of the view that these colleges do not have the necessary infrastructure. Since this report is by some eminent experts and senior officers and also the Government has issued certain G.Os., which are subject matter of certain Writ Petitions, taking away the recognition of the certificates awarded by these four colleges, we deem it proper to direct that these four colleges shall not admit any more students till further orders from this Court. The Government shall notify this order appropriately so that innocent candidates do not fall prey to any attempt by such colleges to admit the students."

The said writ petitions were finally disposed of by the Division Bench of this court by order dated 11-9-2003 by which all the interim orders in Batch of Writ

Petitions ceased to have any effect, and, consequently directed the State Government to prepare the select list of candidates in accordance with Rules, who possessed S.S.C. and Diploma certificates either from Government institutions or the four private institutions referred to supra. After disposal of the writ petition the present Memo was issued by the Director of Health on 11-8-2004 which is now challenged in this writ petition contending that once the interim order ceases to have effect on the disposal of the writ petition, issuing such notice by the Director of Health without application of mind, will have a serious repercussion on the credibility of the institution and the same is liable to be set aside.

Learned counsel for the petitioner as well as the learned Government Pleader for Medical and Health and Family Welfare have not been in a position to state that whether pursuant to the said proceedings any press release was issued by giving wide publicity in the news papers disabling the institutions stated supra.

Be that as it may, since the Memo itself is pursuant to the interim directions issued by this court, which ceased to have any effect on mere allowing of the writ petition, the proceedings of the Director to inform the institutions as per the interim orders are not sustainable and the impugned memo is liable to be set aside.

In view of the same, the Writ Petition is accordingly allowed and the impugned memo is set aside. No costs.

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A. Gopal Reddy, J.

6th October, 2004.

Js.

Note: C.C. in 2 days.

ASSISTANT REGISTRAR

To

1 Director of Health, Andhra Pradesh, Hyderabad.
2 Government of Andhra Pradesh, rep. by its Principal

Secretary, Medical and Health Department, Secretariat,

Hyderabad.

3 District Medical and Health Officer, Visakhapatnam

District at Visakhapatnam.

4 2 CCs to G.P. for Medical and Health & Family Welfare, High

Court Buildings, Hyderabad.

5 2 CD copies.